

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MARGARITA ROSSY, as Administrator of the  
ESTATE OF JOSE HERNANDEZ-ROSSY

Plaintiff,

-vs-

Case No. 17-CV-0937  
**COURT ORDER**

CITY OF BUFFALO, and its agents, servants and employees, and  
BUFFALO POLICE DEPARTMENT P.O. JUSTIN TEDESCO,  
BUFFALO POLICE DEPARTMENT P.O. JOSEPH ACQUINO,  
and POLICE COMMISSIONER DANIEL DERENDA,  
Individually and in their representative capacities, and  
AMERICAN MEDICAL RESPONSE d/b/a "AMR"  
And its agents, servants and employees,

Defendants.

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**ORDER COMPELLING NON- PARTY  
WITNESS DEPOSITION OF  
GINO FRESCO**

(Fed. R. Civ. P. 37(a))

This matter came before the Court on the motion of Plaintiff MARGARITA ROSSY, as Administrator of the ESTATE OF JOSE HERNANDEZ-ROSSY to compel the appearance and testimony of GINO FRESCO as a non-party witness for his deposition testimony. After considering that motion, and the prior proceedings in the case, and there being no opposition thereto, the Court finds that the motion should be Granted.

**IT IS THEREFORE ORDERED THAT:**

1. GINO FRESCO, a non-party witness in the captioned case shall appear and give testimony at his deposition in this cause, on dates to be selected by counsel for

Plaintiff MARGARITA ROSSY, as Administrator of the ESTATE OF JOSE HERNANDEZ- ROSSY and to be conducted at the Law Office of Nelson S. Torre, Esq., 438 Main St., 9<sup>th</sup> Floor, Suite 910, Buffalo, New York 14202.

2. The non- party witness GINO FRESCO is admonished that the failure to comply with the terms of this Court Order and accompanying Subpoena may result in severe sanctions, including contempt of court penalties, fines, and/or imprisonment.

3. Counsel for the Plaintiff MARGARITA ROSSY, as Administrator of the ESTATE OF JOSE HERNANDEZ- ROSSY shall prepare the Subpoena for service upon the non-party witness GINO FRESCO to appear and give testimony at the deposition as ordered herein.

4. A true copy of this Order Compelling the non-party deposition of GINO FRESCO and the Subpoena shall be served upon the non-party witness GINO FRESCO by the United States Marshal for the Western District Of New York.

Dated: November 13, 2019  
Buffalo, New York

SO ORDERED:

  
HON. H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge